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Ellen Duvall.

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H.R. Rep. No. 1034, 27th Cong., 2nd Sess. (1842)

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ELLEN DUVALL.

AUGUST 22, 1842.

Read, and laid upon the table.

Mr. TURNER, from the Committee on Private Land Claims, submitted the following

REPORT :

*The Committee on Private Land Claims, to whom was referred the petition of Ellen Duvall, widow of Edward W. Duvall, deceased, for herself and in behalf of the heirs of said deceased, report :*

That the petitioners claim the reserved lands in question, under and by virtue of an alleged purchase made by their deceased husband and father, in or about the year of 1830. From the testimony, it appears that said Edward W. Duvall, deceased, as agent for the Cherokee Indians west, advertised for sale and sold said reservation at public auction, to the highest bidder, and for ready money, and at which sale he employed as auctioneer of said sale a certain N. Menefee, who sold said land according to the terms of the advertisement, and at which sale the said Edward W. Duvall, deceased, became the purchaser, for the sum of \$2,050, and paid the consideration money to the said N. Menefee, who shortly thereafter paid it back to the said Edward W. Duvall, as agent as aforesaid ; that, subsequently thereto, the said decedent was charged, on the books of the Second Auditor of the Treasury, with the \$2,050, on a settlement of his accounts on the 29th of April, 1831 ; but that in a subsequent settlement, the 26th of April, 1832, he received credit for the same, by the direction of the Secretary of War, as per his endorsement of a paper on file, in relation to the sale of said reservation, which endorsement is in the words following, to wit : " I consider the within sale invalid, and the purchase money heretofore charged to Mr. Duvall will be credited to his account."

Your committee concur in the opinion thus given by the Secretary of War. There is no principle in jurisprudence better settled than this—that an agent, administrator, executor, or any other fiduciary character, cannot become a purchaser at his own sale ; it is absurd to suppose a man can sell to himself ; there must be two parties to every contract. To permit an agent to purchase at his own sale would lead to the grossest frauds ; the temptation to speculation, the devices which would be resorted to for the purpose of preventing competition, would be highly detrimental to the public interest. Your committee, therefore, ask to be discharged from the further consideration of the subject.